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REPORT BY THE

Comptroller General

OF THE UNITED STATES

What Have HUD And EPA Done To Deal With High Radiation Levels In Two Montana Cities?

Tests have shown that many houses in Butte and Anaconda, Montana, are exposed to higher than normal levels of radiation. Similar problems may exist elsewhere.

In September 1979 the Department of Housing and Urban Development issued a ruling that it would not provide financing for housing that did not meet interim Environmental Protection Agency standards.

Senator Max Baucus asked GAO to answer a series of questions about HUD and EPA actions to deal with this problem.



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CED-80-63
FEBRUARY 8, 1980





COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

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The Honorable Max Baucus
Chairman, Subcommittee on
Limitations on Contracted
and Delegated Authority
Committee on Judiciary
United States Senate

SEN 2518

Anaconda (MT)
Butte (MT)

AOC 35P
DLG-03918

Dear Mr. Chairman:

In response to your September 19, 1979, request (see app. I) and subsequent questions raised by your office, we have reviewed Department of Housing and Urban Development (HUD) and Environmental Protection Agency (EPA) activities and responsibilities concerning the recently disclosed raised levels of radiation in the areas of Butte and Anaconda, Montana. Each of your concerns is noted below followed by a detailed discussion of our inquiries into these matters. During this review, we also made some observations on the Federal responsibility for monitoring and regulating hazardous substances affecting housing. These observations begin on page 11.

HUD and EPA officials advised us that hazardous substances affecting housing have only recently been recognized as a significant national health problem. Our review disclosed that while HUD has taken certain steps to address hazardous substance issues in housing, Federal housing agencies are not presently fully prepared to deal with this emerging national problem.

The major portion of our review was conducted at HUD and EPA headquarters in Washington, D.C. We examined pertinent records, legislation, regulations, procedures, documents, and reports and held discussions with responsible HUD regional office officials in Denver, Colorado, and HUD area office and Montana Department of Health and Environmental Sciences officials in Helena, Montana. We also held discussions with Farmers Home Administration (FmHA) and Veterans Administration (VA) headquarters officials in Washington, D.C., and VA field office officials in Helena, Montana.

environmental development

Safety standards evaluation

Housing programs

Housing construction federal/state relations

Hazardous substances health hazards
Environmental policies

Radiation " monitoring safety

exposure hazards

BACKGROUND

On September 12, 1979, HUD notified Montana State and Butte and Anaconda area housing officials that owners of property in Silver Bow (Butte) and Deer Lodge (Anaconda) Counties applying for HUD housing assistance would be required to show that any presence of radon gas does not exceed acceptable levels, later defined as an EPA interim standard of 0.02 Working Level limit on the presence of radioactive radon gas. Preliminary tests conducted since July 1978 by the Montana Department of Health and Environmental Sciences indicated that higher than normal levels of radioactivity are present in many Butte and Anaconda area residences. The Department is continuing to study the problem, with EPA technical assistance, to determine the extent and nature of the radioactivity which appears to be a product of radon gas, according to Montana Department of Health and Environmental Sciences officials.

EPA describes radon gas as

"a noble radioactive gas originating from the naturally occurring uranium-238 decay chain. Radon decays to a series of short-lived radionuclides. If the gas becomes airborne, the short-lived progeny become attached to airborne dust which can be subsequently inhaled. Inhalation of the progeny will cause a radiation dose to be delivered to the respiratory tract and cause an increased risk of lung cancer to those persons exposed. The magnitude of the risk is dependent upon the concentration of the progeny and duration of exposure as well as other factors."

MATTERS OF CONCERN

1. What Department-wide housing criteria does HUD use to restrict Federal funding for housing and other investments in areas of potential hazard?

According to HUD officials, the Department has had no consistent procedures for restricting Federal funding for housing where hazardous substances create a potential hazard. The Secretary of HUD may determine on a case-by-case basis if a potential hazard warrants the restriction of HUD funding. Decisions to restrict HUD-supported housing assistance have been primarily guided by a variety of existing program review

procedures and general safety considerations regarding items such as building structure; materials; site hazards (unstable soils, flooding, and similiar hazards); excessive noise; noxious odors; and grossly offensive sights.

On September 10, 1979, HUD issued Policy Guidance Notice (79-33), which HUD officials intended as the Department's initial attempt to address the problems posed by toxic chemicals and radioactive materials. The notice provides policy guidance to

"* * * establish consistent Departmental procedures for recognizing such hazards and for protecting the health and safety of the public, and for minimizing their impact on HUD assisted activities."

The notice states that HUD's Environmental Hazards Task Force, established by HUD Secretary Harris in May 1979 to address the problems of hazardous waste disposal and to assist in implementing policy, reviewed existing HUD environmental review procedures and determined that the procedures are sufficiently broad to address many potential environmental hazards during the application process. Where current procedures are not adequate for a specific situation, the September 10 notice presents policy criteria to be followed for new construction and existing properties. (See app. III for specific details.)

2. Does HUD attempt to balance its actions regarding community economic needs with considerations of potential hazards in HUD-supported housing? How are conflicts resolved?

HUD has no formal procedure for balancing its actions regarding community economic needs with considerations of potential hazards in HUD-assisted housing, according to HUD officials. However, we were told that economic, social, and community considerations are considered informally whenever restriction of HUD funding or other actions may be warranted because of hazardous substance problems. For example, HUD officials told us that the severity of the restrictions they impose on funding varies, depending in part on community and economic impact. HUD officials said that a complete moratorium on all HUD-supported housing programs could have been declared in the Butte and Anaconda areas but was not. Because of the economic and community impact such an action

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would have had, HUD's Denver regional office chose instead to require a case-by-case onsite test as an additional application requirement to obtain approval of HUD housing assistance.

HUD officials acknowledged that if extreme action, such as a funding moratorium, appeared necessary to protect the health of housing occupants and the safety of Federal investments, then such an action would be taken regardless of economic or other factors.

3. HUD's ruling included a requirement that home sellers in the Butte area who seek Federal Housing Administration (FHA) insurance must have EPA radiation tests, conducted at the sellers' expense. Is EPA able to meet the level of demand which the HUD ruling implies? Is there legal authority or precedence which enables HUD to determine that the home seller must pay for such radiation tests? Is HUD or EPA required or allowed to absorb costs in determining levels of radiation in private and public residences?

Under a 1-year, \$65,000 HUD technical assistance grant awarded on September 13, 1979, to the Montana Department of Health and Environmental Sciences to develop and implement the radon gas testing program, the Montana Department of Health and Environmental Sciences has been able to perform about 17 surveys per week at a cost of \$52 per survey. HUD officials stated that about 30 applications for single and multifamily housing assistance are received from the Butte and Anaconda areas per month. Based on these figures, the Montana Department of Health and Environmental Sciences has been able to meet the present level of requests for site tests.

The HUD Secretary responded to congressional inquiries on November 29, 1979, as follows.

"The Department has conditioned future expenditures and assistance on a determination that a prospective HUD-assisted structure is not subject to hazardous levels of radon gas decay products. This action is consistent with the longstanding policy of the Department not to offer assistance in areas or with

respect to individual sites where any form of hazard exists which might adversely affect the health and safety of future residents."

The Secretary noted that HUD's action involves several different programs and different general authorities, such as section 203(a) of the National Housing Act (12 U.S.C. 1709(a)) which grants the Secretary very broad authority to condition eligibility for program participation. The Secretary also noted that it is questionable whether HUD has the authority under the FHA mortgage insurance program to expend funds for the inspection of properties not owned by HUD and which would traditionally be considered an expense of sale by the owner.

EPA officials stated that EPA has no general cleanup authority or testing responsibilities, although it has provided technical assistance in such cases. For instance, EPA has proposed a \$72,000 contract with Montana Department of Health and Environmental Sciences for determining radon levels in the Butte area. The information will be used to assist in setting radiation guides and standards.

4. Is the Butte situation an isolated incident or are there other areas in the United States with potentially hazardous radiation levels? If so, what ongoing activity, if any, is underway to identify these hazardous sites?

The Butte situation is not unique. Several areas in the Nation have experienced problems with radioactive or other hazardous materials, including

- Denver, Colorado, where radioactive waste products from old industrial operations have been discovered (see our Report "Cleaning Up Commingled Uranium Mill Tailings: Is Federal Assistance Necessary." EMD-79-29, Feb. 5, 1979);
- Niagara Falls, New York, where industrial chemicals have seeped into the area's water treatment plant and entered the water supply;
- central Florida, where hundreds of homes were built on land covered with radioactive waste from old phosphate operations, unusually high levels of radon gas have been found; and

--Lathrop, California, where pesticides dumped improperly are now threatening the area's drinking and irrigation water.

EPA recently estimated that 77 billion pounds of hazardous wastes are generated each year and that only 10 percent of that amount is disposed of in an environmentally sound manner. EPA estimates that there may be some 30,000 hazardous waste sites in the United States which may pose a hazard to man and the environment.

The Resource Conservation and Recovery Act, Public Law 94-580, dated October 21, 1976, was specifically designed to regulate land disposal of discarded materials and hazardous wastes. Recognizing that "hazardous waste presents, in addition to the problems associated with non-hazardous solid waste, special dangers to health," the Congress enacted subtitle C in the Resource Conservation and Recovery Act directing EPA to create a standardized national system for regulating hazardous wastes.

The Subcommittee on Oversight and Investigations, House Committee on Interstate and Foreign Commerce, in its report on September 1979 hazardous waste disposal hearings, stated that (1) a reasonable first step in a sound regulatory waste disposal process would be to find out where all dangerous material is going and (2) EPA should be conducting a comprehensive inventory of these hazardous waste disposal sites. However, the subcommittee reported that EPA was not conducting such a survey. EPA officials also acknowledged that EPA has no present national radiation monitoring program.

5. What remedies can HUD and EPA offer occupants of federally supported housing where hazardous substances have been found?

According to HUD officials, HUD has no specific legislative authority or responsibility to clean up hazardous materials. Most HUD officials believed that the primary responsibility for cleanup would rest with State and local governments.

Remedial help from HUD for occupants of federally assisted housing contaminated by hazardous substances is unclear. HUD officials could not identify any specific HUD program that could offer financial help to occupants when hazardous substances are found in HUD-assisted housing. HUD officials suggested that HUD might be able to offer occupants low-interest loans under

section 312 of the Housing Act of 1964, as amended, which authorizes the Secretary of HUD to make loans for the rehabilitation of single and multifamily residential and business properties. Remedial help to non-HUD-assisted housing occupants is even less clear, according to HUD officials.

EPA has various legislative authorities that may be used in certain instances to protect the public from imminent hazards, including the Resource Conservation and Recovery Act (42 U.S.C. 6973), the Safe Drinking Water Act (42 U.S.C. 300i), and the Federal Water Pollution Control Act (33 U.S.C. 1364). However, EPA officials stated that EPA has no specific legislative cleanup authority or responsibilities regarding hazardous substances found in housing. ✓

6. How are HUD's actions concerning hazardous substance problems generally coordinated with Federal agencies, especially EPA, FmHA, and VA? What interagency agreements exist concerning hazardous substance coordination?

To promote interagency cooperation on matters of hazardous substances, HUD established the Environmental Hazards Task Force in May 1979. HUD's Under Secretary has identified the following responsibilities for the task force:

- Draft a departmental policy to guide HUD's responses to future problem situations.
- Assess the potential overall impact on HUD mortgage insurance and housing assistance programs and community development programs.
- Establish interagency and intergovernmental policies and procedures to improve data on the location and extent of environmental contamination and for consistent actions when responsibilities are shared by several agencies.
- Continue to monitor the Love Canal and Rocky Flats actions.

The task force is comprised of 12 HUD staff members from various headquarters and regional offices. The task force chairman believes that the task force's role should be as a focal point and clearinghouse on matters or complaints regarding

hazardous substances found in HUD-assisted housing. Interagency coordination is a primary responsibility of the task force according to the chairman. The task force promotes interagency field office exchanges of hazardous substance information and also invites other agency officials to attend task force meetings. Officials from EPA, FmHA, and VA have acknowledged that discussions and meetings with the task force have taken place regarding hazardous substance issues, including the radiation problems in Butte and Anaconda.

The September 10, 1979, HUD Policy Guidance Notice (79-33) requires that HUD's environmental review process be amended to

"* * * include a screening to assure that project sites are not located in proximity of sites (identified as potentially hazardous by EPA) which are affected by toxic chemicals or radioactive substances."

The notice also states that HUD environmental clearance officers should make reasonable and practicable efforts to obtain information on potentially hazardous sites from local and State agencies that would normally gather such information.

The September 10 notice, which reached field offices in late October, also requires that this HUD policy be followed "even if no new applications for HUD assistance are pending at that particular site." Due to the notice's recent issuance, it is too early to determine the extent of HUD's compliance with this guidance.

EPA has several interagency cooperative agreements with other Federal agencies, including HEW. However, EPA and HUD have no general cooperative agreement between them, and EPA has no cooperative agreements with any agency specifically regarding radon gas.

HUD officials were unable to identify any general departmental agreements with other agencies concerning hazardous substance interagency coordination. In cases where specific hazardous substance problems are identified, HUD and EPA field offices may enter into interagency agreements. For instance, on September 4, 1979, HUD and EPA Denver regional offices entered into a cooperative agreement regarding the unusually high radiation levels found in the Butte and Anaconda areas. As part of a memorandum of understanding, the Montana Department of Health

and Environmental Sciences in conjunction with EPA developed and furnished to HUD an "interim radiation survey protocol." This protocol defines the criteria and methodology for site tests. The September 4 agreement states that in all cases where test results are not clear, HUD will refer the results to EPA for advice and guidance which EPA has agreed to furnish within 5 working days. EPA will provide an interim reply where the complexity of the matter precludes a prompt response.

7. To what extent does EPA have responsibility for monitoring residential and working area radiation levels in the United States? Is its administration of this responsibility adequate?

EPA officials stated that although they believe EPA does have the necessary authority to establish a national environmental radiation monitoring system, it has not done so. The officials believe that the responsibility for establishing a national monitoring system is not clearly EPA's. No congressional legislation or executive branch directive requiring such action by EPA has been established, according to EPA officials.

Under Presidential Reorganization Plan Number 3 of October 6, 1970, several regulatory functions were transferred from various Federal departments and agencies to EPA, enabling it to establish environmental radiation standards. For example, all functions of the Federal Radiation Council (42 U.S.C. 2021(h)) and functions including establishing generally applicable environmental standards for the protection of the general environment from radioactive material administered by the Division of Radiation Protection Standards of the Atomic Energy Act of 1954, as amended, were transferred to the newly established EPA. ✓

Functions concerning radiation standards not transferred to EPA but remaining with other Federal agencies such as the Department of Energy and the Nuclear Regulatory Commission include (1) regulation of radiation from consumer products, including electronic product radiation, (2) radiation as used in the healing arts, (3) occupational exposures to radiation, and (4) research, technical assistance, and training related to items (1), (2) and (3). EPA's Chief of the Federal Guidance Branch, Criteria and Standards Division, stated that these transferred functions enabled EPA to establish environmental radiation protection standards, outside the work area. ✓

EPA has not set a national standard for radon gas, but at the request of the State of Florida, EPA studied public exposure to radiation from radon gas and gamma rays in that State. EPA reviewed the health risks associated with chronic exposures to these agents and recommended on May 30, 1979, that remedial action should be taken by responsible State authorities in all Florida residences in which the initial annual indoor air concentration of radon decay products exceeds 0.02 Working Level, including normal indoor background radiation.

8. Is there any attempt to study areas of abnormally high cancer rates in order to establish causal relationships?

At present, neither HUD nor EPA are studying causal relationships in high cancer rate areas, although such studies have been previously attempted. The National Cancer Institute, which is part of the National Institutes of Health, has made various national studies to develop information about high cancer rate causal relationships. According to both HUD and EPA officials, various reasons, including high population mobility, different types and sources of carcinogens, and long periods between carcinogen exposure and noticeable health effect (usually measured in years), make developing meaningful causal data extremely difficult with present state-of-the-art limitations.

9. What procedures for handling hazardous substance problems in housing have been established at VA and FmHA?

No special processing requirements have been established by VA or FmHA regarding applications for housing assistance from the Butte and Anaconda areas. Officials from both agencies believe that until EPA establishes a radon gas standard for the Butte and Anaconda areas, rather than an interim standard, and then determines that excessive radon gas levels do constitute a hazard, no special or unusual processing requirements should be instituted.

According to a VA official, VA has not established uniform procedures for handling hazardous substances discovered in VA-assisted housing because "this is a brand new problem area which has not yet been addressed by VA." General VA housing assistance processing requirements include a review of minimum property standards, which includes and broadly recognizes radiation hazards, but no specific criteria or guidance are outlined.

FmHA officials stated that, like VA, FmHA has no specific procedures which should be taken when hazardous substances are detected in FmHA-assisted housing.

FURTHER OBSERVATIONS RESULTING
FROM THIS REVIEW

HUD is attempting to address the problems created by hazardous substances found in housing. In doing so, it has taken certain administrative actions, such as issuing hazardous substance policy guidance to its field offices and creating the Environmental Hazards Task Force. We believe these actions are commendable; however, some of the issues created by hazardous substances in housing are long term and have not yet been fully addressed by the Federal Government.

Our inquiry revealed several issues concerning whether Federal agencies are fully prepared to deal with emerging hazardous substance problems. Although our review was limited, agency officials suggested that the following questions should be addressed to respond effectively to future hazardous substance situations.

- Are interagency coordination efforts adequate to establish uniform and consistent Federal housing responses to hazardous substance problems? Although HUD's Environmental Hazards Task Force has a primary objective of establishing effective interagency cooperation, its success will depend on its ability to obtain the voluntary actions required from the various Federal housing agencies. For example, after radon gas was discovered in Butte and Anaconda residences, HUD's Environmental Hazards Task Force informed FmHA and VA housing officials of the potential hazard. HUD requested that similar site-specific tests also be required by FmHA and VA housing assistance programs. However, both FmHA and VA have declined to institute any special processing requirements for housing assistance in the Butte and Anaconda areas.

- Are Federal environmental hazards monitoring efforts adequate to anticipate the location of future hazardous problem areas? EPA is currently developing a system to ensure that all hazardous substances disposed of in the future will be regulated according to strict Federal standards. However, this system does not address the thousands of old sites around the country where hazardous substances have been dumped with little thought to their later environmental effects.

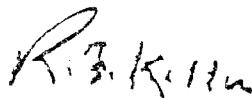
- Is information available to help affected property owners remedy hazardous substance problems? In an effort to counsel Butte and Anaconda property owners on remedial methods to reduce or eliminate radon gas concentrations, the Director of the Montana Department of Health and Environmental Sciences stated that various items of appropriate equipment had been found to be available. However, locating information on equipment and distributors has taken considerable effort.
- Are Federal and State officials adequately trained to identify residential hazardous substance problems? Hazardous substances located in housing and residential areas is emerging as one of this Nation's most serious potential health problems according to HUD and EPA. Toxic chemicals and radioactive materials are often presenting mostly unprepared Federal and State housing officials with extremely complex and technical problems for which they have received little or no training.

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At your request, we did not obtain either written or oral agency comments on this report, but we did discuss the issues with agency officials throughout our review.

As arranged with your office, we will make copies of this report available to interested parties beginning 30 days after the report date, or earlier if publicly released by your office.

Sincerely yours,



DEPUTY Comptroller General
of the United States

APPENDIX I

MAX BAUCUS
MONTANA

1107 DIRKSEN OFFICE BUILDING
WASHINGTON, D.C. 20510
(202) 224-2651

MONTANA TOLL FREE NUMBER
1-800-332-6106

United States Senate

WASHINGTON, D.C. 20510
September 19, 1979

APPENDIX I

COMMITTEE ON FINANCE
CHAIRMAN, SUBCOMMITTEE ON THE
OVERSIGHT OF THE INTERNAL
REVENUE SERVICE
COMMITTEE ON JUDICIARY
CHAIRMAN, SUBCOMMITTEE ON
LIMITATIONS ON CONTRACTED
AND DELEGATED AUTHORITY
SELECT COMMITTEE ON
SMALL BUSINESS

Mr. Elmer B. Staats
Comptroller General of the United States
General Accounting Office
441 G Street N.W.
Washington, D.C. 20548

23

Dear Mr. Staats:

In January of this year, a Montana Department of Health report disclosed that high levels of radioactivity had been discovered in Butte, Montana.

The disclosures concerning Butte revealed that a type of phosphorous slag containing radioactive particles had been used extensively as building material in the Butte area. Elevated levels of radiation were found in both homes and on streets. The health hazard to Butte residents has not been determined; however, the incidence of cancer in Butte is twice as high as the national average.

Preliminary tests conducted by the Montana Department of Health and Environmental Sciences indicated that the phosphate slag used in construction materials may be partially responsible for high levels of radioactivity in some residences. But the tests also reveal that elevated radiation levels were found in homes built without the presence of the slag. It is possible that the source is low-level uranium deposits located underground.

The Montana Department of Health will not have conclusive findings for at least a year. Late last week, however, the U.S. Department of Housing and Urban Development, without prior notice, issued a ruling that it would not participate in financing any housing projects for single-family homes in the Butte vicinity (Silver Bow and Deer Lodge Counties) until housing or housing sites are found to meet an EPA standard setting a 0.02 WL limit on the presence of radon gas. This ruling came despite a previous assurance to me by the Department that such action would not be taken without my prior consultation.

Accordingly, I write to request a thorough General Accounting Office examination of HUD and Environmental Protection Agency activity relating to the particular Butte situation and to possible other similar problem areas in the United States. As part of this review, I would appreciate your attempting to answer the following questions:

BILLINGS
(406) 857-6790

BUTTE
(406) 792-8700

GREAT FALLS
(406) 761-1574

HELENA
(406) 449-5480

MISSOULA
(406) 728-2043

RECYCLED PAPER

Mr. Elmer B. Staats
September 19, 1979
Page Two

- 1.) To what extent does EPA have responsibility for monitoring residential and working area radiation levels in the United States? Is its administration of this responsibility adequate?
- 2.) Is the Butte situation an isolated incident or are there other areas in the United States with potentially hazardous radiation levels? If so, what on-going activity, if any, is under way to discover and take remedial action concerning these problems?
- 3.) Is there any attempt to study areas of abnormally high cancer rates in order to establish causal relationships?
- 4.) What criteria, if any, does HUD use to restrict federal funding for housing and other investment in areas of potential hazard? Does the Department attempt to balance community economic needs with considerations of potential hazard? How are potential conflicts resolved? In answering this question, please specifically outline the adequacy of this process as it relates to the recent decision concerning Butte.
- 5.) HUD's ruling included a requirement that home sellers in the Butte area who seek Federal Housing Administration insurance must now have EPA radiation tests, conducted at the sellers' expense. Is EPA able to meet the level of demand which the HUD ruling implies? Is there legal authority or precedence which enables HUD to determine that the home seller must pay for such radiation tests? Is the Environmental Protection Agency required or allowed to absorb costs in determining levels of radiation in private and public residences?
- 6.) As I understand it, the Environmental Protection Agency has responsibility for protecting the public from environmental hazards. The Department of Housing and Urban Development has the responsibility for helping citizens obtain adequate and safe housing. The Butte situation would seem to indicate a failure on the part of the government to recognize a potential problem and to take adequate measures to prevent undue hardship to the residents and economy of the Butte-Anaconda area. What improvements might be made in the legislation governing federal activity in this area or in the administration of HUD, EPA, or other federal entities with responsibility in this area, to help insure that similar problems are avoided in the future?

Mr. Elmer B. Staats
September 19, 1979
Page Three

- 7.) What federal activity exists to help remedy problems of existing hazardous wastes? In particular, is any federal assistance available to help remove hazardous waste from Butte or other areas similarly affected?

Thank you for your assistance. I would appreciate your keeping the origin of this request and the report itself confidential for the standard 30 days following your delivery of the report to me.

With best personal regards, I am

Sincerely,

A handwritten signature in cursive script, appearing to read "Max Baucus".

CHRONOLOGY OF EVENTS
REGARDING HAZARDOUS SUBSTANCE ACTIVITY IN
BUTTE AND ANACONDA, MONTANA

<u>Date</u>	<u>Event</u>
July 1, 1978	Montana Department of Health and Environmental Sciences initiates study of radon gas problem in Butte and Anaconda.
Spring 1979	EPA region VIII informs HUD Environmental Hazards Task Force of radon problem in Butte and Anaconda.
June 1979	Memo to HUD region VIII Administrator from task force staff recommending action be taken.
June 19, 1979	HUD Environmental Hazards Task Force meets with FMHA and VA to discuss establishing consistent housing finance procedures in affected hazardous substance areas.
July 1979	HUD region VIII Deputy Administrator travels to Butte and Anaconda to meet with local officials. Requested by these officials to develop a program to address radon problem that would permit continued HUD funding of activities in both communities.
July 2, 1979	EPA establishes 0.02 Working Level limit on radon gas for State of Florida (Federal Register Vol. 44, No. 128, p. 38664).
August 28, 1979	HUD Under Secretary briefed on Butte and Anaconda problem. He concurs in strategy of site-specific testing proposed by region VIII.

- September 4, 1979 HUD and EPA establish memo of understanding including "interim HUD/Montana radiation survey protocol" for Butte and Anaconda.
- September 10, 1979 HUD issues "Policy Guidance to Address the Problems Posed by Toxic Chemicals and Radioactive Materials." (See app. III.)
- September 12, 1979 HUD notifies State and local housing officials of site-testing requirement for housing assistance.
- September 12-14, 1979 HUD headquarters and region VIII officials travel to Butte, Anaconda, and Helena to meet with State and local officials, VA and FmHA representatives, and local interest groups.
- September 13, 1979 HUD makes \$65,000 technical assistance grant to Montana Department of Health and Environmental Sciences for study of radioactivity in Butte.
- HUD receives joint letter from Senators Baucus and Melcher and Representative Williams protesting HUD's actions in Butte and Anaconda.
- September 24, 1979 HUD receives letter from Senator Baucus requesting additional information.
- Governor of Montana requests the Secretary of HUD to recant the Department's decision to require site-specific tests in Butte and Anaconda.
- September 26, 1979 Governor of Montana requests that EPA establish a radon gas standard for Montana. (See interim limit established for Florida on July 2, 1979).
- HUD Secretary responds to September 13 congressional letter.

September 27, 1979 HUD Environmental Hazard Task Force holds meeting with FmHA and VA to discuss HUD actions in Butte and Anaconda.

September 28, 1979 HUD and EPA attend meeting with Montana congressional members to discuss radiation problem in Butte and Anaconda and explain HUD and EPA actions.

October 5, 1979 Region VIII Administrator and HUD special assistant travel to Big Sky, Montana, to attend convention of Montana Association of Realtors to discuss Butte and Anaconda radon problem.

October 29 -
November 1, 1979 Aerial radiation mapping overflights of Butte and Anaconda area are conducted.

November 29, 1979 HUD Secretary responds to September 24 letter request from Senator Baucus.

December 7, 1979 The HUD Administrator responds to the Governor of Montana's request of September 24 and explains why site-specific testing is necessary.

January 22, 1980 Montana Department of Health and Environmental Sciences has completed about 50 FHA mortgage insurance site tests in the Butte and Anaconda areas. Several residences have been found with above normal radiation levels, and in some cases these levels exceed by 10 times the 0.02 Working Level standard.

U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

UNDER SECRETARY

NOTICE

74-33



September 10, 1979

EXPIRES: Indefinite (per Under Secretary)

TO: Headquarters Principal Staff, Regional Administrators and Principal
Regional Staff, Area Managers and Principal Staff, Other Field Office
Supervisors and Principal Staff

SUBJECT: Policy Guidance to Address the Problems Posed by Toxic
Chemicals and Radioactive Materials

1. Purpose. This Notice provides policy guidance to address the problems posed by man-made environmental hazards such as toxic chemical and radioactive materials. The goal is to establish consistent Departmental procedures for recognizing such hazards and for protecting the health and safety of the public, and for minimizing their impact on HUD assisted activities. This policy pertains to all Department of Housing and Urban Development programs. Regional Administrators and field office managers and supervisors should assure that this Notice is distributed to all employees whose responsibilities are affected by the Notice. Until sufficient information becomes available to incorporate detailed instructions regarding the relationships of HUD programs to hazardous sites into existing handbooks, etc., the guidance provided below is in effect.

Field offices should consult with the CPD office of Environmental Quality on technical issues or procedural matters pertaining to this Notice.

2. Background. In recent months, the awareness of dangers to public health caused by exposure to toxic chemical and radioactive materials and other man-made hazards has increased dramatically. The Department's experience in responding to such problems as the dangers of radiation exposure related to the activities of the Rocky Flats, Colorado plutonium processing facility, as well as the Love Canal problem in Niagara Falls, New York (where toxic chemicals buried years ago are now posing a significant threat to residents in the area), has demonstrated the serious difficulties and great losses that can occur for individuals and the community. The nature of the Department's programs, particularly our role in insuring and sub-

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sidizing housing units and in providing funds for community planning and development--activities which can be uniquely vulnerable to environmental hazards--mandates a special effort to safeguard the health of the people and the integrity of the programs that serve them. It is critical that the Department make every effort to prevent future exposure of the public by anticipating and avoiding problem locations. In addition, the Department must establish routine procedures for addressing problems where development has already occurred.

3. Environmental Hazards Task Force. To address the problems of hazardous waste disposal and to assist in implementing the policy, the Secretary has established an Environmental Hazards Task Force. The Task Force has been charged with the following responsibilities:

- Draft a Departmental policy to guide HUD's responses to future problem situations;
- Assess the potential overall impact on HUD mortgage insurance and housing assistance programs and community development programs;
- Establish interagency and intergovernmental policies and procedures to improve data on the location and extent of environmental contamination; and to take consistent actions when responsibilities are shared by several agencies; and
- Continue to monitor the Love Canal and Rocky Flats actions.

4. Policy. The Task Force has reviewed existing HUD environmental review procedures, and has determined that these procedures are sufficiently broad to permit field offices to address many potential environmental hazards during the application process.

The procedures outlined in current issuances should be closely followed in determining eligibility of a proposal for HUD funding. To the extent that current procedures are not adequate for a specific situation, the following policy will prevail:

A. New Construction

Upon receipt of an application for HUD support of any new construction on a site that is suspected of posing a potential environmental hazard:

- (1) All pertinent material relating to the hazard will be gathered and assembled by the Field Office.
- (2) Complete analysis of the hazardous site will be made using the best talent available in the Field Office and the Regional Office, as required. Such things as distance from the site, type of materials dumped or manufactured, wind directions and effects of waterways or drainage will be reviewed.
- (3) If it is clear that the site would pose a serious health risk for inhabitants, a reject rating will be entered on the ECO 2/3. Part C "Site Suitability Analysis" and in Part I, as required. The sponsor should be so notified.
- (4) In all other cases, the following steps must be taken if there is a potential or possible exposure to these hazards:
 - (a) Notify the Regional ECO and request a review of the site by EPA, Office of Solid Waste Management.
 - (b) Furnish the EPA with all pertinent material and request any information they might have on the hazard site.
 - (c) Notify the sponsor of the action and the anticipated delay.
 - (d) Notify the Chairman of the Environmental Task Force through the Regional Administrator's Office.
 - (e) If the EPA review indicates that a hazard exists, or if in EPA's judgment a reasonable doubt continues to exist and cannot be addressed through remedial measures, the project or proposed subdivision should be rejected and written notification made to the Chairman, Environmental Hazards Task Force. Any public announcement of a rejection will not be made until it is cleared by the Task Force.
 - (f) If the EPA review indicates that the site is acceptable for habitation, processing will be continued and appropriate applicants or other applicable parties will be notified of the determination.

B. Request for Assistance on Existing Properties

In some instances, it may be found that existing properties are submitted for mortgage insurance, rehabilitation grants, Section 8 subsidies, etc., and the property is found to be on or near a hazardous waste site or in close proximity to radioactive materials.

- (1) With respect to an existing property, criteria found in outstanding instructions will be used to determine acceptability of the submitted application. No existing property can be accepted for mortgage insurance where a hazard is known to exist that will affect the health and safety of the homeowner. Where a hazard is "possible" or "potential" but is unproven, and where the appraiser cannot determine the nature of the hazard and its effect on the subject property, the field offices should immediately request a technical opinion from EPA, and in the same manner as "new construction" inform Headquarters on action to be taken concerning the area. In all cases where approval is granted, despite the existence of a potential hazard, a full and complete disclosure shall be made to purchasers in a form approved by the Secretary. The Task Force will coordinate the development of appropriate disclosure documents.

C. Locally Approved Sites

If a state or local health or environmental agency approves a project, or a geographic area in which projects may be approved--and the project or project area lies within a site identified by EPA as hazardous, or where the field office believes that a reasonable doubt exists about the health and safety of the area--such state or local certification may be accepted only if EPA notifies HUD that HUD may rely upon the certification of that agency.

If a state or local health department or other environmental unit of State or local government has already determined that a site is subject to any of the above environmental hazards at the time a proposal is received, the proposal will be rejected without reference to EPA.

D. Community Development Activities

Community development representatives should advise local communities not to utilize CDBG funds on activities supporting new development for habitation at locations affected by toxic chemicals and radioactive materials.

5. Site Identification. The Environmental Hazards Task Force is working with the Environmental Protection Agency (EPA) to obtain specific locations for sites that are identified as potentially hazardous. The first group of sites has already been forwarded to you by Assistant Secretary Embry's memorandum of June 14, 1979. Where the acceptability of the sites included on the EPA list is unclear, further inquiry of the EPA should be made. Additional information will be forwarded as EPA provides it. A copy of Assistant Secretary Embry's memorandum is attached.

It is intended that all current environmental policies and procedures shall be adhered to and that the environmental review process be amended to include a screening to assure that project sites are not located in proximity of sites which are affected by toxic chemicals or radioactive substances. Particular attention should be given to any proposed site in the general proximity of dumps, landfills, or industrial locations that might contain hazardous wastes.

Environmental Clearance Officers should make reasonable and practicable efforts to obtain information on potentially hazardous sites from local and state agencies that would normally gather such information.

As additional sites not included in the EPA list are identified by the field, notification will be made to the Regional Administrators and the Task Force. Likewise, should additional sites be identified by the Regional Office, notification will be made to Area Managers and the Task Force.

Cases where an environmental hazard exists which may affect residents in existing HUD supported construction should also be brought to the attention of the Task Force. This policy will be followed even if no new applications for HUD assistance are pending at that particular site.

Problems requiring Task Force consideration should be sent to:

Mr. Alan Kappeler, Chairman
Environmental Hazards Task Force
Room 4108
451 7th Street, S.W.
Washington, D.C. 20410
Telephone: (202) 755-8182

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